

Assembly Bill No. 341

Passed the Assembly August 30, 2013

Chief Clerk of the Assembly

Passed the Senate August 26, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 18930, 18930.5, and 18931.7 of, and to add Section 18940.5 to, the Health and Safety Code, relating to green building standards.

LEGISLATIVE COUNSEL'S DIGEST

AB 341, Dickinson. Green building standards.

Existing law requires the California Building Standards Commission to codify all building standards of adopting agencies or state agencies that propose the building standards and statutes defining building standards into one California Building Standards Code. Existing law provides that if no state agency has the authority or expertise to propose green building standards applicable to a particular occupancy, the commission shall adopt, approve, codify, update, and publish green building standards for those occupancies.

This bill would require the commission and state agencies that propose green building standards to allow for input by other state agencies that have expertise in green building subject areas. The bill would require the process by which these other state agencies shall submit suggested changes for consideration to be adopted as administrative regulations that include certain elements.

Existing law requires that funds deposited into the Building Standards Administration Special Revolving Fund be expended, upon appropriation, to carry out specified provisions of law that relate to building standards, with emphasis placed on the development, adoption, publication, updating, and educational efforts associated with green building standards.

This bill would expand these provisions to authorize the expenditure of those funds for carrying out the updating of green building standards and the updating of verification guideline for Tier 1 and Tier 2 green building standards and educational efforts, including, but not limited to, training for local building officials associated with green building standards.

Existing law provides that codification of building standards approved by the commission shall be incorporated into the code and shall not be incorporated into other individual titles of state agencies in the California Code of Regulations.

This bill would also require, as part of the next triennial update of the California Building Standards Code, that state agencies that propose green building standards, as specified, to the extent that it is feasible, reference or reprint those green building standards in other relevant portions of the California Building Standards Code.

The people of the State of California do enact as follows:

SECTION 1. Section 18930 of the Health and Safety Code is amended to read:

18930. (a) Any building standard adopted or proposed by state agencies shall be submitted to, and approved or adopted by, the California Building Standards Commission prior to codification. Prior to submission to the commission, building standards shall be adopted in compliance with the procedures specified in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. Building standards adopted by state agencies and submitted to the commission for approval shall be accompanied by an analysis written by the adopting agency or state agency that proposes the building standards which shall, to the satisfaction of the commission, justify the approval thereof in terms of the following criteria:

(1) The proposed building standards do not conflict with, overlap, or duplicate other building standards.

(2) The proposed building standard is within the parameters established by enabling legislation and is not expressly within the exclusive jurisdiction of another agency.

(3) The public interest requires the adoption of the building standards. The public interest includes, but is not limited to, health and safety, resource efficiency, fire safety, seismic safety, building and building system performance, and consistency with environmental, public health, and accessibility statutes and regulations.

(4) The proposed building standard is not unreasonable, arbitrary, unfair, or capricious, in whole or in part.

(5) The cost to the public is reasonable, based on the overall benefit to be derived from the building standards.

(6) The proposed building standard is not unnecessarily ambiguous or vague, in whole or in part.

(7) The applicable national specifications, published standards, and model codes have been incorporated therein as provided in this part, where appropriate.

(A) If a national specification, published standard, or model code does not adequately address the goals of the state agency, a statement defining the inadequacy shall accompany the proposed building standard when submitted to the commission.

(B) If there is no national specification, published standard, or model code that is relevant to the proposed building standard, the state agency shall prepare a statement informing the commission and submit that statement with the proposed building standard.

(8) The format of the proposed building standards is consistent with that adopted by the commission.

(9) The proposed building standard, if it promotes fire and panic safety, as determined by the State Fire Marshal, has the written approval of the State Fire Marshal.

(b) In reviewing building standards submitted for its approval, the commission shall consider only the record of the proceedings of the adopting agency, except as provided in subdivision (b) of Section 11359 of the Government Code.

(c) Where the commission is the adopting agency, it shall consider the record submitted to, and considered by, the state agency that proposes the building standards and the record of public comment that results from the commission's adoption of proposed regulations.

(d) (1) The commission shall give great weight to the determinations and analysis of the adopting agency or state agency that proposes the building standards on each of the criteria for approval set forth in subdivision (a). Any factual determinations of the adopting agency or state agency that proposes the building standards shall be considered conclusive by the commission unless the commission specifically finds, and sets forth its reasoning in writing, that the factual determination is arbitrary and capricious or substantially unsupported by the evidence considered by the adopting agency or state agency that proposes the building standards.

(2) Whenever the commission makes a finding, as described in this subdivision, it shall return the standard to the adopting agency or state agency that proposes the building standards for a reexamination of its original determination of the disputed fact.

(e) Whenever a building standard is principally intended to protect the public health and safety, its adoption shall not be a “factual determination” for purposes of subdivision (d). Whenever a building standard is principally intended to conserve energy or other natural resources, the commission shall consider or review the cost to the public or benefit to be derived as a “factual determination” pursuant to subdivision (d). Whenever a building standard promotes fire and panic safety, each agency shall, unless adopted by the State Fire Marshal, submit the building standard to the State Fire Marshal for prior approval.

(f) Whenever the commission finds, pursuant to paragraph (2) of subdivision (a), that a building standard is adopted by an adopting agency pursuant to statutes requiring adoption of the building standard, the commission shall not consider or review whether the adoption is in the public interest pursuant to paragraph (3) of subdivision (a).

SEC. 2. Section 18930.5 of the Health and Safety Code is amended to read:

18930.5. (a) If no state agency has the authority or expertise to propose green building standards applicable to a particular occupancy, the commission shall adopt, approve, codify, update, and publish green building standards for those occupancies.

(b) The commission and other state agencies that propose green building standards shall allow for input by other state agencies that have expertise in green building subject areas. The process by which these other state agencies shall submit suggested changes for consideration shall be adopted as administrative regulations in Part 1 of Title 24 of the California Code of Regulations. These administrative regulations shall include, but not be limited to, all of the following:

- (1) The timing for receipt of suggested changes.
- (2) Whether the suggested changes should be considered for adoption as mandatory or voluntary green building standards.
- (3) The concurrent submission of appropriate technical analysis that could be used by the agency to support the proposal under the requirements of subdivision (a) of Section 18930, including the rationale supporting the recommendation that the item be considered for adoption as mandatory or voluntary green building standards.

(4) The concurrent submission of fiscal analysis necessary for submission to the Department of Finance and for use in complying with the cost of compliance provisions of Sections 11346.2 and 11346.5 of the Government Code.

(5) The manner in which the suggestions will be made available to the public.

(c) If a state agency that proposes green building standards offers advice to the commission via an advisory panel appointed pursuant to Section 18927, as part of its presentation it shall, to the extent feasible, indicate those voluntary green building measures that may be considered for possible adoption as mandatory within the next two subsequent adoption cycles.

SEC. 3. Section 18931.7 of the Health and Safety Code is amended to read:

18931.7. (a) All funds received by the commission under this part shall be deposited in the Building Standards Administration Special Revolving Fund, which is hereby established in the State Treasury.

(b) Moneys deposited in the fund shall be available, upon appropriation, to the commission, the department, and the Office of the State Fire Marshal for expenditure in carrying out the provisions of this part, and the provisions of Part 1.5 (commencing with Section 17910) that relate to building standards, as defined in Section 18909, with emphasis placed on the development, adoption, publication, and updating of green building standards, the updating of verification guidelines for Tier 1 or Tier 2 green building standards and educational efforts, including, but not limited to, training for local building officials associated with green building standards.

SEC. 4. Section 18940.5 is added to the Health and Safety Code, to read:

18940.5. As part of the next triennial update of the California Building Standards Code (Title 24 of the California Code of Regulations) adopted after January 1, 2014, agencies that propose green building standards for inclusion in Part 11 of Title 24 of the California Code of Regulations shall, to the extent that it is feasible, reference or reprint the green building standards in other relevant portions of Part 2, 2.5, 3, 4, 5, or 6 of Title 24 of the California Code of Regulations. For purposes of compliance with this section, the republication of the provisions of Part 11 of Title 24 of the

California Code of Regulations in other parts of Title 24 of the California Code of Regulations shall not be considered duplication in violation of paragraph (1) of subdivision (a) of Section 18930.

Approved _____, 2013

Governor